

## § 1955.104

*Surplus property.* For FSA inventory property, real property that cannot be used for agricultural purposes including nonfarm properties. For other agencies, property that cannot be used to carry out the objectives of financing available through the applicable loan program.

[50 FR 23904, June 7, 1985, as amended at 50 FR 45783, Nov. 1, 1985; 51 FR 18436, May 20, 1986; 53 FR 27830, July 25, 1988; 53 FR 30664, Aug. 15, 1988; 53 FR 35776, Sept. 14, 1988; 56 FR 29403, June 27, 1991; 56 FR 67484, Dec. 31, 1991; 57 FR 19525, 19528, May 7, 1992; 57 FR 31642, July 17, 1992; 58 FR 44752, Aug. 25, 1993; 58 FR 48290, Sept. 15, 1993; 58 FR 58649, Nov. 3, 1993; 62 FR 44399, Aug. 21, 1997]

### § 1955.104 Authorities and responsibilities.

(a) *Redelegation of authority.* FmHA or its successor agency under Public Law 103-354 officials will redelegate authorities to the maximum extent possible, consistent with program objectives and available resources.

(1) Any authority in this subpart which is specifically provided to the Administrator or to an Assistant Administrator may only be delegated to a State Director. The State Director cannot redelegate such authority.

(2) Except as provided in paragraph (a)(1) of this section, the State Director may redelegate, in writing, any authority delegated to the State Director in this subpart, unless specifically excluded, to a Program Chief, Program Specialist, or Property Management Specialist on the State Office staff.

(3) The District Director may redelegate, in writing, any authority delegated to the District Director in this subpart to an Assistant District Director or District Loan Specialist. Authority of District Directors in this subpart applies to Area Loan Specialists in Alaska and the Director for the Western Pacific Territories.

(4) The County Supervisor may redelegate, in writing, any authority delegated to the County Supervisor in this subpart to an Assistant County Supervisor, GS-7 or above, who is determined by the County Supervisor to be qualified. Authority of County Supervisors in this subpart applies to Area Loan Specialists in Alaska, Island Directors in Hawaii, the Director for the Western Pacific Territories, and Area Super-

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visors in the Western Pacific Territories and American Samoa.

(b) *Responsibility.* (1) National Office program directors are responsible for reviewing and providing guidance to State, District and County Offices in disposing of inventory property.

(2) The State Director is responsible for establishing an effective program and insuring compliance with FmHA or its successor agency under Public Law 103-354 regulations.

(3) District Directors are responsible for disposal actions for programs under their supervision and for monitoring County Office compliance with FmHA or its successor agency under Public Law 103-354 regulations and State Supplements.

(4) County Supervisors are responsible for timely disposal of inventory property for programs under their supervision.

(c) *Bid or offer acceptance.* The servicing official has the authority to offer for sale, accept and/or reject bids or offers for inventory property regardless of amount. Any credit request, however, must be approved by an approval official within his/her respective loan approval authority as outlined in the applicable Exhibits of FmHA or its successor agency under Public Law 103-354 Instruction 1901-A (available in any FmHA or its successor agency under Public Law 103-354 office).

[53 FR 27830, July 25, 1988]

### CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT (CONACT) REAL PROPERTY

#### § 1955.105 Real property affected (CONACT).

(a) *Loan types.* Sections 1955.106-1955.109 of this subpart prescribe procedures for the sale of inventory real property which secured any of the following type of loans (referred to as CONACT property in this subpart): Farm Ownership (FO); Recreation (RL); Soil and Water (SW); Operating (OL); Emergency (EM); Economic Opportunity (EO); Economic Emergency (EE); Softwood Timber (ST); Community Facility (CF); Water and Waste Disposal (WWD); Reserve Conservation and Development (RC&D); Watershed (WS); Association Recreation; EOC:

Rural Renewal; Water Facility; Business and Industry (B&I); Rural Development Loan Fund (RDLF); Intermediary Relending Program (IRP); Nonprofit National Corporation (NNC); Irrigation and Drainage; Shift-in-Land Use (Grazing Association); and loans to Indian Tribes and Tribal Corporations. Homestead Protection, as set forth in Subpart S of Part 1951 of this chapter, is only applicable to Farmer Program loans as defined in § 1955.103 of this subpart.

(b) *Controlled substance conviction.* In accordance with the Food Security Act of 1985 (Pub. L. 99-198), after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA or its successor agency under Public Law 103-354 office, for the definition of “controlled substance”) prior to a credit sale approval in any crop year, the individual or entity shall be ineligible for a credit sale for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA or its successor agency under Public Law 103-354 410-1, “Application for FmHA or its successor agency under Public Law 103-354 Services,” that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985.

(c) *Effects of farm property sales on farm values.* State Directors will analyze farm real estate market conditions within the geographic areas of their jurisdiction and determine whether or not the sale of the FmHA or its successor agency under Public Law 103-354 farm inventory properties will have a detrimental effect on the value of farms within these areas. Such analysis will be carried out in January of each year and as often throughout the year as necessary to reflect changing farm real estate conditions. If the analyses of farm real estate conditions indicate that such sales would put down-

ward pressure on farm real estate values in any area, all farm properties within the area affected will be withheld from the market and managed in accordance with the provisions of Subpart B of this Part until such time that a subsequent analysis indicates otherwise. The State Director will notify, in writing, the County Supervisor(s) servicing those areas that are restricted from selling farm inventory property. State Directors in consultation with other lenders, real estate agents, auctioneers, and others in the community will analyze all available information such as:

(1) The number of farms and acres that FmHA or its successor agency under Public Law 103-354 expects to acquire in inventory.

(2) The number of farms and acres other lenders expect to acquire in inventory.

(3) The number of farms and acres that FmHA or its successor agency under Public Law 103-354 currently has in inventory.

(4) The number of farms and acres other lenders currently have in inventory.

(5) The number of farms not included in paragraphs (c)(3) and (c)(4) of this section which are currently listed for sale.

(6) Published real estate values and trend reports such as those available from the Economic Research Service or professional appraisal organizations.

(d) *Highly erodible land.* If farm inventory property contains “highly erodible land,” as determined by the SCS, the lease must include conservation practices specified by the SCS and approved by FmHA or its successor agency under Public Law 103-354 as a condition for leasing. Refer to § 1955.137(d) of this subpart for implementation requirements.

[53 FR 35777, Sept. 14, 1988, as amended at 57 FR 19528, May 7, 1992; 58 FR 58649, Nov. 3, 1993; 62 FR 44399, Aug. 21, 1997]

#### **§ 1955.106 Disposition of farm property.**

(a) *Rights of previous owner and notification.* Before property which secured a Farm Credit Programs loan is taken into inventory, the FSA county official will advise the borrower-owner of